

Supreme Court of the State of New York  
Appellate Division: Second Judicial Department

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WILLIAM F. MASTRO, J.P.  
ANITA R. FLORIO  
JOHN M. LEVENTHAL  
SANDRA L. SGROI, JJ.

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2008-11014

DECISION & ORDER

The People, etc., respondent,  
v Derek Simmons, appellant.

(Ind. No. 2362/05)

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Derek Simmons, Dannemora, N.Y., appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Ushir Pandit of counsel), for respondent.

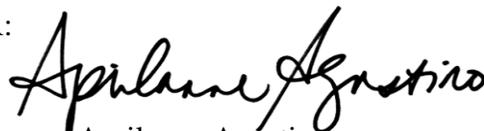
Application by the appellant for a writ of error coram nobis to vacate, on the ground of ineffective assistance of appellate counsel, a decision and order of this Court dated May 17, 2011 (*People v Simmons*, 84 AD3d 1120), affirming a judgment of the Supreme Court, Queens County, rendered November 19, 2008.

ORDERED that the application is denied.

The appellant has failed to establish that he was denied the effective assistance of appellate counsel (*see Jones v Barnes*, 463 US 745; *People v Stultz*, 2 NY3d 277).

MASTRO, J.P., FLORIO, LEVENTHAL and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

November 21, 2012

PEOPLE v SIMMONS, DEREK